

REMARKS

Claims 88-100 have been canceled without prejudice. Applicant reserves the right to pursue the subject matter of the cancelled claims in a separate application. Thus, claims 1-87 and 101-110 are currently pending in the present application.

Applicant respectfully requests that the amendments and remarks made herein be entered and fully considered.

Restriction

The Examiner has required election under 35 U.S.C. § 121 of one of the following inventions:

I. Claims 1-87 and 101-110, drawn to an IL-9 antibody, wherein the antibody is human or humanized, conjugated, in a composition and kit, classified in class 435, subclass 810, and class 530, subclass 387.3;

II. Claim 88, drawn to a method for preventing, treating, managing and/or ameliorating a disease by administering an IL-9 antibody, classified in class 424, subclass 133.1;

III. Claims 89, 90, 91, 94-99 and 101-110, drawn to a method for preventing, treating, managing and/or ameliorating a respiratory infection by administering an IL-9 antibody, classified in class 424, subclass 133.1;

IV. Claims 89, 92, 94-99 and 101-110, drawn to a method for preventing, treating, managing and/or ameliorating an inflammatory disorder by administering an IL-9 antibody, classified in class 424, subclass 133.1;

V. Claims 89, 93-99 and 101-110, drawn to a method for preventing, treating, managing and/or ameliorating an autoimmune disorder by administering an IL-9 antibody, classified in class 424, subclass 133.1; and

VI. Claim 100, drawn to a method of detecting the levels of IL-9 in a sample, classified in class 435, subclass 7.1.

The Examiner contends that the inventions of Group I-VI are distinct, each from the other.

The Examiner further requires that further election be made of a single species of anti-IL-9 antibody, and to specify: (1) the applicable heavy chain SEQ ID NO; (ii) the applicable light chain SEQ ID NO; (iii) the applicable heavy chain CDR1, CDR2 and CDR3 SEQ ID NOS, respectively; and (iv) the applicable light chain CDR1, CDR2 and CDR3 SEQ ID NOS, respectively, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Election

In response, Applicant hereby elects the invention of Group I (claims 1-87 and 101-110), directed to an IL-9 antibody, wherein the antibody is human or humanized, conjugated, in a composition and kit, classified in class 435, subclass 810, and class 530, subclass 387.3, without prejudice to Applicant's right to pursue the non-elected subject matter in related applications.

Applicant further elects the following species of antibody: 7F3com-2H2. In addition, to be fully responsive, Applicant provides the following SEQ ID NOS corresponding to 7F3com-2H2: (1) SEQ ID NO:43, corresponding to the heavy chain (VH Domain); (ii) SEQ ID NO:47, corresponding to the light chain (VL Domain); (iii) SEQ ID NO:44, corresponding to the heavy chain CDR1; SEQ ID NO:45, corresponding to the heavy chain CDR2; and SEQ ID NO:46, corresponding to the heavy chain CDR3; and (iv) SEQ ID NO:48, corresponding to the light chain CDR1; SEQ ID NO:49, corresponding to the light chain CDR2; and SEQ ID NO:50, corresponding to the light chain CDR3. Applicant believes that claims 1-87 and 101-110 are readable upon the elected antibody and species.


The Examiner states that currently, claims 1-3 are generic. Applicant, upon allowance of the generic claims, will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim pursuant to § 1.141.

CONCLUSION

Applicant respectfully requests that the above-made remarks and amendments be entered and made of record in the present application. No fee is believed to be due for this submission. However, if the Commissioner should determine that a fee is due, please charge the required amount to Jones Day Deposit Account No. 50-3013. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same. An early allowance is earnestly requested.

Respectfully submitted,

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Enclosure